

**IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
BRYSON CITY DIVISION
2:13 cr 15**

UNITED STATES OF AMERICA,)	
)	
Vs.)	ORDER
)	
WALTER HENRY STANCIL,)	
)	
Defendant.)	
)	

THE MATTER has come before the undersigned pursuant to a Motion to Modify Bond Conditions (#135) and an Amended Motion to Modify Bond Conditions (#137) filed by counsel for the Defendant. In the motions, Defendant requests that the conditions of his pretrial release be modified such that the Defendant's passport be returned to him and further that Defendant be allowed to possess firearms. In the amended motion, counsel for the Defendant reflects that he has consulted with Richard Edwards, Assistant United States Attorney and Mr. Edwards has no objection to the relief sought by the Defendant in the motions. For the following reasons, the undersigned will deny the motions without prejudice.

On June 17, 2013, the undersigned entered an Order setting conditions of pretrial release for the Defendant (#14). As a part of those conditions, the undersigned ordered:

(8)(g) Defendant surrender any passport to the office of probation and pretrial services;

(8)(n) Defendant refrain from possession a firearm, destructive device or other dangerous weapon.

Defendant now requests permission that the terms and conditions of his presentence release be modified to allow him to have possession of his passport and to allow him to possess firearms. The requirements of this Court that Defendant not have a passport is to prevent the flight of Defendant to a point outside the jurisdiction of the Court. Defendant has now been found guilty of a Class One misdemeanor. The undersigned does not consider that the finding by the jury of Defendant's guilt as to the misdemeanor creates a situation where it is less likely that Defendant might flee. More importantly, in regard to this Court's order that Defendant refrain from possessing a firearm, destructive device or other dangerous weapons, the undersigned does not find that there is good reason for the granting of that request. The prohibition against the Defendant possessing firearms is in large part for the protection of the supervising probation officer who will be supervising the Defendant and visiting at the home of the Defendant during the period of presentence release. To allow Defendant to now have possession of a firearm would increase possible danger to the probation officer. The undersigned appreciates the fact that the Government does not have an objection, and has given consideration to that fact, but the Court's interest in the safety of others must be paramount and particularly the interest of the safety of the

supervising probation officers.

The undersigned scheduled a hearing in regard to the Motion to Modify Bond Conditions (#135), however, counsel for Defendant in his amended motion contends that such a hearing is not necessary. The undersigned appreciates the efforts of counsel for the Defendant, but in regard to this issue, the Court disagrees. For those reasons, the undersigned will deny the Motion to Modify Bond Conditions and the Amended Motion to Modify Conditions without prejudice. Should Defendant's counsel wish to be heard in open court before the undersigned, then counsel is invited to file a motion and the undersigned will set the matter on for hearing. At that time, all parties, including the supervising probation office and the supervising officer, can be heard in regard to any request that Defendant might make for a modification of his bond conditions.

ORDER

IT IS, THEREFORE, ORDERED that for the reasons stated above the Motion to Modify Bond Conditions (#135) and the Amended Motion to Modify Bond Conditions (#137) are **DENIED** without prejudice.

Signed: October 21, 2014



Dennis L. Howell
United States Magistrate Judge

